

REMARKS

Claims 1-4, 9, 10 and 12 are pending in the instant application. Claims 1-3 have been amended to recite “or a salt thereof” instead of “or a salt, a hydrate, a hydrate of a salt or a solvate thereof.” Support for this amendment can be found throughout the specification as originally filed. No new matter has been added.

Applicants respectfully thank the Examiner for the withdrawal of the prior rejections.

Applicants respectfully reserve the right to pursue any non-elected, canceled or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

Reconsideration and withdrawal of the objections to and the rejections of this application in view of the amendments and remarks herewith, is respectfully requested, as the application is in condition for allowance.

Rejections under 35 U.S.C. §112, First Paragraph

Certain claims have been rejected under 35 USC § 112, first paragraph, as allegedly failing to comply with the enablement requirement. The Examiner has stated that these claims are “Claims 1, 7, 8, 13-15 and 17” Applicants believe this is a typographical error and request clarification. Nevertheless, the Applicants have addressed the rejection with respect to pending claims 1-4, 9, 10 and 12. While Applicants strongly disagree with the Examiner’s allegation, and solely for the purpose of advancing prosecution, Claims 1-3 have been amended to recite “or a salt thereof” instead of “or a salt, a hydrate, a hydrate of a salt or a solvate thereof.” Support for this amendment can be found throughout the specification as originally filed. No new matter has been added. Applicants note that claims 4, 9, 10 and 12 each depend from claim 1 and so no further amendment is necessary.

Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 112, First Paragraph be withdrawn.

Rejections under 35 U.S.C. §112, Second Paragraph

The Examiner has stated that the scope of the terms “heteroaryl” and “heterocyclyl” require clarification. Applicants respectfully note that the Examiner has not specifically referenced any claims to which this “rejection” is being made.

The Examiner states that “Applicant must narrow such broad terminology by either eliminating such a broad definition or by inserting the specific ring systems they wish to cover into the claim themselves.” Applicants respectfully disagree.

The term “heteroaryl” is defined as “represent[ing] an aromatic mono- or bicyclic radical having generally 5 to 10, preferably 5 to 6, ring atoms and up to 5, preferably up to 4, heteroatoms from the group consisting of S, O and N, by way of example and by way of preference, thienyl, furyl, pyrrolyl, thiazolyl, oxazolyl, imidazolyl, pyridyl, pyrimidyl, pyridazinyl, indolyl, indazolyl, benzofuranyl, benzothiophenyl, quinolinyl, isoquinolinyl.” (Page 11).

The term “heterocyclyl” is defined as “represent[ing] a mono- or polycyclic, preferably mono- or bicyclic, non-aromatic heterocyclic radical having 4 to 10, generally 5 to 8, preferably or 6, ring atoms and up to 3, preferably up to 2, heteroatoms and/or hetero groups from the group consisting of N, O, S, SO, SO₂. The heterocyclyl radicals may be saturated or partially unsaturated. Preference is given to 5- or 6-membered monocyclic saturated heterocyclyl radicals having up to two heteroatoms from the group consisting of O, N and S, such as, by way of example and by way of preference, tetrahydrofuran-2-yl, tetrahydrothienyl, pyrrolidin-2-yl, pyrrolidin-3-yl, pyrrolinyl, pyranyl, piperidin-1-yl, piperidin-2-yl, piperidin-3-yl, piperidin-4-yl, thiopyranyl, morpholin-1-yl, morpholin-2-yl, morpholin-3-yl, perhydroazepinyl, piperazin-1-yl, piperazin-2-yl.” (Page 12).

Applicants note that in each of Claims 1-4, 9, 10 and 12, the terms heteroaryl and heterocyclyl are described with reference to specific ring sizes (i.e. “5- to 10- membered, 4- to 6-membered, 5- to 6-membered, etc). As such, Applicants believe that one of ordinary skill in the art upon reading the definitions in the specification and the language of the claims will be able to understand the scope of the compounds claimed. As such, Applicants respectfully contend that the pending claims are clear and are not indefinite. Reconsideration and withdrawal of the rejection is proper and the same is requested.

CONCLUSION

In view of the foregoing, reconsideration and withdrawal of all rejections, and allowance of the instantly claimed invention is earnestly solicited. If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at the telephone number below.

Applicants believe that there are no additional fees due with this response. However, if a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 04-1105 for any fee(s) due with this response.

Dated: April 3, 2009

Respectfully submitted,

Electronic signature: /Nicholas J. DiCeglie, Jr./
Nicholas J. DiCeglie, Jr.

Registration No.: 51,615
EDWARDS ANGELL PALMER & DODGE
LLP

P.O. Box 55874
Boston, Massachusetts 02205
(212) 308-4411
Attorneys/Agents For Applicant